

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANDRE POLK,

Petitioner,

v.

BLAINE LAFLER,

Respondent.

Case No. 06-11899

Honorable Nancy G. Edmunds

**ORDER ACCEPTING AND ADOPTING
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION [18]**

This matter comes before the Court on the Magistrate Judge's March 26, 2007 Report and Recommendation [18]. Being fully advised in the premises and having reviewed the record and the pleadings, including Petitioner's objections, the Court hereby ACCEPTS and ADOPTS the Magistrate Judge's Report and Recommendation with the following additional observations.

First, Petitioner's objections rely heavily upon *Stumpf v. Mitchell*, 367 F.3d 594 (6th Cir. 2004), to support his argument that he lacked the specific intent necessary to be able to plead guilty to armed robbery. Such reliance is misplaced, however, as the Supreme Court has reversed that case, *Bradshaw v. Stumpf*, 545 U.S. 175 (2005). Secondly, Petitioner's ineffective assistance of counsel argument based upon his trial attorney's failure to assert a possible duress defense fails because Petitioner has not demonstrated that the outcome at trial would likely have been different, had he elected not to plead guilty. This is especially so given that the prosecutor agreed to drop three additional firearms

charges in exchange for Petitioner pleading guilty to armed robbery, and he has not indicated why a jury would have been unlikely to convict him of these additional offenses.

The petition for writ of habeas corpus is DENIED.

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: July 16, 2007

I hereby certify that a copy of the foregoing document was served upon counsel of record on July 16, 2007, by electronic and/or ordinary mail.

s/Carol A. Hemeyer
Case Manager